

RIGHTS, PRIVILEGES, AND IMMUNITIES OF CONSULAR OFFICERS

Convention signed at Washington May 23, 1878

Senate advice and consent to ratification June 6, 1878

Ratified by the President of the United States June 21, 1878

Ratified by the Netherlands July 10, 1879

*Ratifications exchanged at Washington July 31, 1879*¹

Entered into force July 31, 1879; operative September 18, 1879

Proclaimed by the President of the United States August 1, 1879

*Terminated May 10, 1919*²

21 Stat. 662; Treaty Series 254

CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE NETHERLANDS

The United States and His Majesty, the King of the Netherlands, being equally actuated by a desire to determine with precision the reciprocal rights, privileges, immunities and duties of their respective consular officers, together with their functions, have resolved to conclude a Consular Convention, and have appointed their plenipotentiaries, viz.,

The President of the United States of America, William M. Evarts, Secretary of State of the United States, His Majesty, the King of the Netherlands, Jonkheer Rudolph Alexander August Eduard von Pestel, Knight of the Order of the Netherlands Lion, His Majesty's Minister Resident in the United States, who having exchanged their respective full powers which were found to be in good and due form, have agreed upon the following articles—

ARTICLE I

Each of the high contracting parties agrees to receive Consuls General, Vice Consuls General, Consuls, Vice Consuls and Consular Agents of the other, into all its ports, cities and places, except in those localities where there may be some objection to admitting such officers.

¹ By resolutions dated Jan. 29 and May 8, 1879, the Senate gave its advice and consent to a six-month extension of the period for exchange of ratifications and to "the earliest date at which it may be found possible by both Governments to effect the exchange".

² Pursuant to notice of termination given by the United States May 10, 1918.

This exception, however, shall not be made in regard to one of the high contracting parties, without being made likewise in regard to every other Power.

ARTICLE II

The Consuls General, Vice Consuls General, Consuls, Vice Consuls and Consular Agents of the two high contracting parties, shall be reciprocally received and recognized on producing their commissions in the forms established in their respective countries, and the necessary exequaturs shall be delivered to them free of cost, on exhibiting which they shall enjoy the rights, prerogatives and immunities which are granted by the present convention.

The government granting the exequatur shall be at liberty to withdraw the same on stating the reasons for which it has thought proper so to do.

Notice shall be given, on producing the commission, of the extent of the district allotted to the consular officer, and subsequently of the changes that may be made in this district.

ARTICLE III

The respective Consuls General, Vice Consuls General, Consuls, Vice-Consuls, Consular Agents, Consular Pupils and Consular Clerks of the high contracting parties, shall enjoy in the two countries all the privileges, exemptions and immunities which are enjoyed or which may be hereafter enjoyed by the officers of the same rank of the most favored nation. Such consular officers being citizens or subjects of the country which has appointed them shall be exempted from military billeting and contributions, and from all military service by land or by sea, whether in the regular army, in the national or civic guard, or in the militia, and shall enjoy personal immunity from arrest or imprisonment except for acts constituting crimes or misdemeanors by the laws of the country in which they reside. They shall, moreover, when citizens or subjects of the country which has appointed them, and provided they be not engaged in commerce or manufactures, likewise be exempt from capitation or sumptuary taxes, and from all other fiscal duties or contributive taxes of a direct or personal character; but this immunity shall not extend to customs, excise or octroi duties, nor to taxes upon real or personal property which they may acquire or own in the country in which they exercise their functions.

Consular officers who engage in commerce shall not plead their consular privileges to avoid their commercial liabilities.

ARTICLE IV

If the testimony of a consular officer, who is a citizen or subject of the State by which he was appointed, and who is not engaged in business, is needed before the courts of either country, he shall be invited in writing to

appear in court, and if unable to do so, his testimony shall be requested in writing, or be taken orally at his dwelling or office.

To obtain the testimony of such consular officer before the courts of the country where he may exercise his functions, the interested party in civil cases, or the accused in criminal cases, shall apply to the competent judge, who shall invite the consular officer in the manner prescribed in § I, to give his testimony.

It shall be the duty of said consular officer to comply with this request, without any delay which can be avoided.

Nothing in the foregoing part of this article, however, shall be construed to conflict with the provisions of the sixth article of the amendments to the constitution of the United States, or with like provisions in the constitutions of the several States, whereby the right is secured to persons charged with crimes, to obtain witnesses in their favor, and to be confronted with the witnesses against them.

ARTICLE V

Consuls General, Vice-Consuls General, Consuls, Vice-Consuls and Consular Agents may place above the outer door of their offices, or residences, the arms of their nation, together with a proper inscription indicative of their office. They may also display the flag of their country over their offices, or dwellings, and may hoist their flag upon any vessel employed by them in port in the discharge of their duty.

ARTICLE VI

The consular archives shall be at all times inviolable, and the local authorities shall under no pretext, examine or seize the papers belonging thereto.

When a consular officer is engaged in business, the papers relating to the Consulate shall be kept in a separate enclosure and apart from the papers pertaining to his business.

The offices and dwellings of consular officers shall in no event be used as places of asylum.

ARTICLE VII

In the event of inability to act, absence or decease of Consuls General, Vice Consuls General, Consuls, Vice Consuls, Consular Agents, their Consular Pupils and Consular Clerks, Chancellors or Secretaries, whose official character may have previously been made known to the Department of State at Washington, or to the Minister of Foreign Affairs at the Hague, shall be permitted to take charge *ad interim* of the business of the Consulate, and while thus acting, and so far as may be competent according to Article III, if foreign citizens not engaged in commerce, shall enjoy all the rights, privileges and immunities granted to the incumbents.

ARTICLE VIII

Consuls General and Consuls may with the approval of their respective governments, appoint Vice Consuls General, Vice-Consuls and Consular Agents in the cities, ports and places within their consular district. They may appoint as such, without distinction, citizens of the United States, subjects of the Netherlands, or citizens or subjects of other countries. The persons so appointed shall be furnished with a commission, and shall enjoy the privileges, rights and immunities provided for in this Convention in favor of consular officers, subject to provisions and limitations as specified in Article III, and in other articles hereof.

ARTICLE IX

The Consuls General, Vice Consuls General, Consuls, Vice Consuls and Consular Agents of the two high contracting parties, shall have the right to address the authorities of the respective countries, national or local, judicial or executive, within the extent of their respective consular districts, for the purpose of complaining of any infraction of the treaties or conventions existing between the two countries, or for purposes of information, or for the protection of the rights and interests of their countrymen.

If such application shall not receive proper attention, such consular officers may, in the absence of the Diplomatic Agent of their Country, apply directly to the government of the country in which they reside.

ARTICLE X

Consuls General, Vice-Consuls General, Consuls, Vice-Consuls or Consular Agents of the two countries, or their Chancellors, shall have the right conformably to the laws and regulations of their country:

1: To take at their office or dwelling, at the residence of the parties, or on board of vessels of their own nation, the depositions of the captains and crews, of passengers on board of them, of merchants, or of any other persons.

2: To receive and verify certificates of births and deaths of their countrymen and of marriages between them, and all unilateral acts, wills and bequests of their countrymen, and any and all acts of agreement entered upon between subjects or citizens of their own country, and between such subjects or citizens and the subjects or citizens or other inhabitants of the country where they reside, and also all contracts between the latter; provided such unilateral acts, acts of agreement or contracts relate to property situated or to business to be transacted in the territory of the nation by which the said consular officers are appointed.

All such acts of agreement and other instruments, and also copies and translations thereof, when duly authenticated by such Consul General, Vice Consul General, Consul, Vice Consul or Consular Agent under his official seal, shall

be received in Courts of Justice, as legal documents or as authenticated copies as the case may be, subject to the provisions of law on such subject, however, in the two countries.

ARTICLE XI

Consuls General, Vice Consuls-General, Consuls, Vice Consuls and Consular Agents shall have charge of the internal order on board of the merchant vessels of their nation, to the exclusion of all local authorities. They shall take cognizance of all disputes and determine all differences which may have arisen at sea, or which may arise in port, between the captains, officers and crews, including disputes concerning wages and the execution of contracts reciprocally entered into. The courts or other authorities of either country, shall on no account interfere in such disputes unless such differences on board ship be of a nature to disturb the public peace on shore or in port, or unless persons other than the officers and crew are parties thereto.

The Consuls-General, Vice-Consuls-General, Consuls, Vice-Consuls and Consular-Agents shall be at liberty to go, either in person or by proxy, on board vessels of their nation admitted to entry, and to examine the officers and crews, to examine the ships' papers, to receive declarations concerning their voyage, their destination and the incidents of the voyage; also to draw up manifests and lists of freight or other documents, to facilitate the entry and clearance of their vessels, and finally to accompany the said officers or crews before the judicial or administrative authorities of the country to assist them as their interpreters or agents.

ARTICLE XII

The Consuls General, Vice-Consuls General, Consuls, Vice-Consuls and Consular Agents of the two countries may respectively cause to be arrested and sent on board, or cause to be returned to their own country, such officers, seamen or other persons forming part of the crew of ships of war or merchant vessels of their nation, who may have deserted in one of the ports of the other.

To this end they shall respectively address the competent national or local authorities in writing and make request for the return of the deserter, and furnish evidence by exhibiting the register, crew list or other official documents of the vessel, or a copy or extract therefrom, duly certified, that the persons claimed belong to said ship's company. On such application being made, all assistance shall be furnished for the pursuit and arrest of such deserters, who shall even be detained and guarded in the jails of the country, pursuant to the requisition and at the expense of the Consuls General, Vice Consuls-General, Consuls, Vice-Consuls or Consular Agents until they find an opportunity to send the deserters home.

If, however, no such opportunity shall be had for the space of three months from the day of the arrest, the deserters shall be set at liberty, and shall not

again be arrested for the same cause. It is understood that persons who are subjects or citizens of the country within which the demand is made, shall be exempted from these provisions.

If the deserter shall have committed any crime or offence in the country within which he is found, he shall not be placed at the disposal of the Consul until after the proper tribunal having jurisdiction in the case shall have pronounced sentence, and such sentence shall have been executed.

ARTICLE XIII

Except in the case of agreement to the contrary, between the owners, freighters and insurers, all damages suffered at sea by the vessels of the two countries, whether they put into port voluntarily, or are forced so to do by stress of weather, shall be adjusted by the Consuls General, Vice-Consuls General, Consuls, Vice Consuls and Consular Agents of the respective countries.

If, however, any inhabitants of the country, or subjects or citizens of a third nation shall be interested in such damages, and if the parties cannot agree, recourse may be had to the competent local authorities.

ARTICLE XIV

All necessary measures connected with the salvage of vessels of the United States which shall have been wrecked on the coasts of the Netherlands, with their cargoes and all that appertains to such vessel, shall be taken by the Consuls General, Vice Consuls-General, Consuls, Vice Consuls and Consular Agents of the United States, and reciprocally, the Consuls General, Vice Consuls General, Consuls, Vice Consuls and Consular Agents of the Netherlands shall take such necessary measures in the case of the wreck of vessels of their country on the coasts of the United States.

The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interest of the salvors, if they do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the merchandise saved.

In the absence of and until the arrest of the Consuls General, Vice Consuls General, Consuls, Vice Consuls and Consular Agents, it shall be the duty of the local authorities to take all necessary measures for the preservation of the persons and property on board of the wrecked vessel.

It is understood that the merchandise saved is not to be subjected to any Custom-House charges, unless it be intended for consumption in the country where the wreck may have taken place.

ARTICLE XV

In case of death of any citizen of the United States in the Netherlands, or of any subject of the Netherlands in the United States, without having in

the country of his decease any known heirs, or testamentary executors by him appointed, or in case of minority of the heirs, there being no guardian, the competent local authorities shall at once inform the nearest consular officer of the nation to which the deceased belongs, of the circumstance, in order that the necessary information may be immediately forwarded to parties interested.

The said consular officer shall have the right to appear personally or by delegate, in all proceedings on behalf of the absent or minor heirs, or creditors, until they are duly represented.

ARTICLE XVI

The present convention shall not be applicable to colonies of either of the high contracting parties, and shall not take effect until the Twentieth day after its promulgation in the manner prescribed by the laws of the two countries.

It shall remain in force for five years from the date of the exchange of ratifications.

In case neither of the contracting parties shall have given notice twelve months before the expiration of the said period, of its desire to terminate this convention, it shall remain in force for one year longer, and so on from year to year, until the expiration of a year from the day on which one of the parties shall have given such notice for its termination.

ARTICLE XVII

The present convention shall be ratified, and the ratifications thereof shall be exchanged at the city of Washington, within six months from the date hereof, and sooner if possible.³

In testimony whereof, the respective plenipotentiaries have signed this convention, and have hereunto affixed their seals.

Done in duplicate at Washington, in the English and Dutch languages, on the twenty third day of May, in the year of Grace, one thousand eight hundred and seventy eight.

WILLIAM MAXWELL EVARTS [SEAL]

R. VON PESTEL [SEAL]

³ See footnote 1, p. 34.